

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

In Re:

DHC REALTY, LLC,

Debtor,

DHC REALTY, LLC, CHOWAIKI
HOLDINGS, LLC, EL PASO DHC
ENTERPRISES, LLC, EL PASO DHC
ENTERPRISES FAR EAST, LLC,
EL PASO DHC ENTERPRISES
WEST, LLC, and DAVID CHOWAIKI

Plaintiffs,

v.

ARMANDO ARMENDARIZ,
YVETTE ARMENDARIZ, and
HECTOR ARMENDARIZ,

Defendants.

ARMANDO ARMENDARIZ and
YVETTE ARMENDARIZ

Counterclaimants

v.

DHC REALTY, LLC, CHOWAIKI
HOLDINGS, LLC, EL PASO DHC
ENTERPRISES, LLC, EL PASO DHC
ENTERPRISES FAR EAST, LLC,
EL PASO DHC ENTERPRISES
WEST, LLC, DAVID CHOWAIKI, and
HILEL CHOWAIKI

Counterdefendants

Case No.: 11-30977-hcm

Adversary No.: 12-03012-hcm

DEFENDANTS' MOTION FOR RECONSIDERATION

TO THE HONORABLE COURT:

Defendants Armando Armendariz, Yvette Armendariz, and Hector Armendariz (collectively "Defendants"), by their undersigned counsel, file the following Motion for Reconsideration and in support of thereof show:

1. Defendants herewith request the Court to reconsider its Orders of February 20, 2013.
2. On February 20, 2013, the Court filed and entered its Orders relating to the February 13, 2013 hearing as to Defendants' Request for Dismissal and Counter-Defendants' Motion to Dismiss (dkt nos. 65 and 66).
3. The Court's "Order Regarding Defendants' Request for Dismissal of All Claims per Court Order of August 6, 2012 (Docket No. 44)" (dkt no. 65) ordered the dismissal of Plaintiffs' Counts 1 and 2 only relating to "fraudulent transfers and post-petition transfers/transactions".
4. The Court's "Order Granting Plaintiff/Counter-Defendants' Partial Motion to Dismiss Counterclaim for Failure to State a Claim (Docket No. 31)" (dkt no. 66) ordered the dismissal of each and every Counterclaim of Counterclaimants "except for Yvette Armendariz's cause of action for breach of contract against David Chowaiki".
5. Defendants contend they have a right to amend by law. Defendants further contend that each of Plaintiffs' causes of action ought to be dismissed, or at minimum, each of the causes of action which rely on the pleading of alleged transfers.
6. Defendants arguments are set forth in the attached Memorandum of Law in Support of Defendants' Motion for Reconsideration.

7. Defendants have also attached their proposed Amended Complaint, a copy of which is attached hereto as Exhibit 1. Defendants request the Court give them leave to amend the causes of action for Breach of Contract and Defamation only.

WHEREFORE, Defendants request that the Court issue an order granting Defendants leave to amend their Complaint as to the causes of action for Breach of Contract and Defamation only. Defendants further request that the Court issue an order dismissing all Plaintiffs' claims, or in the alternative, an order dismissing all claims except for Count 9 of Plaintiffs' Complaint, and for any such further relief as the Court deems appropriate.

Respectfully submitted,

FIRTH♦JOHNSTON♦MARTINEZ

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/s/ Christopher R. Johnston
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/s/ Sidney J. Diamond
SIDNEY J. DIAMOND
State Bar No. 5803000

CERTIFICATE OF SERVICE

I, Christopher R. Johnston, do hereby certify that on March 4, 2013, a true and correct copy of the foregoing Defendants' Motion for Reconsideration, was served via electronic means as listed on the Court's ECF noticing system or by depositing the same in the United States Mail, properly addressed and postage prepaid, to the following parties:

THE DEBTOR:

DHC Realty, LLC
301 Williams
El Paso, TX 79901

THE DEBTOR'S ATTORNEY:

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El Paso, TX 79949-1770

/s/ Christopher R. Johnston
CHRISTOPHER R. JOHNSTON